

## **REMARKS**

This Amendment is in response to the Office Action dated April 26, 2006. As it is filed on July 26, 2006, it is timely filed.

### **I. Status of the Amendments**

Prior to this amendment, claims 41-44, 47-62, 65-78 and 81-94 were pending, and claims 1-40, 45, 46, 63, 64, 79, and 80 were canceled. By this amendment, claims 41, 59 and 77 are amended and claim 81 is canceled without prejudice to refile. Therefore, claims 41-44, 47-62, 65-78 and 82-94 are still at issue.

### **II. Response to the Office Action**

The claims were rejected under 35 U.S.C. § 112, second paragraph, and 35 U.S.C. 103(a). Applicant addresses each rejection in turn.

#### **A. The Section 112, Second Paragraph, Rejection Should be Withdrawn**

Claims 41-44, 47-62, 65-78 and 81-94 were rejected under 35 USC § 112, second paragraph, as allegedly indefinite. In particular, it was alleged that three essential elements or steps were omitted, amounting to gaps in the claims.

As to the first allegedly missing element (“Claims do not address the outcome associated with an incorrect answer selection”), applicants respectfully disagree that this “element” necessary or represents a gap in the claim. The comparison of interest, as explained below, is between the pass and the correct answer. However, applicants have amended the claims to highlight that the award is provided if the correct answer or the pass is selected, but not if an incorrect answer is selected. This should not be taken as excluding an award of some value for an incorrect answer, but neither does the incorrect answer result in the award provided if a correct answer or a pass is selected.

As to the second and third allegedly missing elements (“Claims do not provide the player an opportunity to utilize the pass as acquired” and “Claims do not define all elements associated with a pass or selection”), applicants submit that the amended claims 41, 59 and

77 traverse the rejection, as is explained in greater detail below. In particular, the amended claims provide for the use of the pass. Additionally, applicants submit that the amended claims answer the question of “if the player were to utilize the pass, what would be the outcome?”

Thus, the rejection should be withdrawn.

**B. The Section 103 Rejection Should be Withdrawn**

Claims 41, 42, 44, 47-60, 62, 65-78, and 81-94 are rejected under 35 USC § 103(a) as allegedly unpatentable over Turner (U.S. Patent No. 4,684,136) in view of Walker et al. (U.S. Patent No. 6,193,606) in further view of Marnell (U.S. Patent No. 5,393,057). Claims 43 and 61 are rejected as allegedly unpatentable over Turner in view of Walker et al. in further view of Marnell in yet further view of Seelig et al. (U.S. Publication No. 2003/0036418). The applicant responds as follows.

Claim 41 recites a gaming method. The method includes receiving a wager from a player, displaying an image representing a game, determining if an event has occurred, and displaying a matrix including a plurality of spaces if the event has occurred, an initial display of the matrix having fewer than all of the plurality of spaces having a trivia topic associated therewith. The method also includes providing a pass responsive to receipt of an amount of money or to exchange of an amount of game credits, wherein neither the amount of money nor the amount of game credits is associated with the wager. The method further includes receiving a selection of a space having a trivia topic associated therewith, selecting a trivia question according to the trivia topic associated with the space selected, displaying the trivia question and a plurality of possible answers to the trivia question, receiving a selection of one of the plurality of possible answers from the player or a selection of the pass, determining if the one of the plurality of possible answers is correct or incorrect, or if the pass was selected, and providing an award if the one of the plurality of possible answers is correct or the pass was selected, but not if the one of the plurality of possible answers is incorrect.

In particular, claim 41 recites providing a pass responsive to receipt of an amount of money or to exchange of an amount of game credits, wherein neither the amount of money nor the amount of game credits is associated with the wager. Further, claim 41 recites receiving a selection of one of the plurality of possible answers from the player or a selection

of the pass, determining if the one of the plurality of possible answers is correct or incorrect, or if the pass was selected, and providing an award if the one of the plurality of possible answers is correct or the pass was selected, but not if the one of the plurality of possible answers is incorrect.

Central to the rejection is paragraph on page 6 of the April 26 Office Action.

Walker teaches allowing the player to provide a “correct trivia answer,” an “incorrect trivia answer,” and “no trivia answer.” Walker Figure 9 & 10, however, is silent regarding charging a fee separate from the wager for “no trivia answer.” However, offering the player a purchasable advantage in a wagering game wherein the purchase is not associated with the monies wagered in the game is extremely old and well known with a common example of such a feature commonly referred to as “insurance” or “bet insurance.” It would have been obvious to one of ordinary skill in the art at the time of invention to offer the player the advantage of providing “no trivia answer” to a trivia question in exchange for an amount money and thereby allow the player to avoid incorrectly answering a trivia question and avoid a loss of won credits associated therewith.

Initially, it should be clear that above-mentioned reasoning does not support the rejection insofar as the claims do not call for “a purchasable advantage.” As noted above, claim 41 recites a pass, which may be provided in response to receipt of money or exchange of game credits. This pass may be selected in the alternative to one of the plurality of possible answers. If a correct answer is selected or the pass is selected, an award may be provided. Thus, claim 41 does not recite a “purchasable advantage,” but a pass with certain use and effect, and reference to “a purchasable advantage” does not disclose this claimed limitation.

In fact, because applicants have not used “purchasable advantage” in the claims or the specification, there is an issue as to what the reference to “purchasable advantage” and “insurance” or “bet insurance” may disclose to one skilled in the art. Assuming this is a form of official notice, then, pursuant to 37 CFR 1.104(d)(2), the applicant requests that such knowledge be submitted in the form of an affidavit of the examiner so that the applicants may address the disclosure in detail. Applicant reserves the right to take further issue with the rejection as to the alleged disclosure of “purchasable advantage” or “insurance”/“bet

insurance” once the disclosure associated with these terms has been explained in greater detail.

Leaving aside the issue as to the exact disclosure of a “purchasable advantage” or “insurance”/“bet insurance” in the art, and addressing the comments made in the above-cited passage regarding the alleged disclosure of the combination of the “purchasable advantage” with the “no trivia answer” option of Walker et al., applicants submit that even if the combination were to provide the disclosure as described, the combination would not support the rejection. As noted above, claim 41 recites a pass with certain limitations as to use and effect. In particular, the use of the pass of claim 41 results in an award being provided *as if a correct answer had been selected* (“providing an award if the one of the plurality of possible answers is correct or the pass was selected”). Thus, the use of the claimed pass results in more than avoidance of “a loss of won credits” associated with an incorrect answer, as suggested in regard to the alleged combination in the passage above. Consequently, the alleged combination, as described, cannot support the rejection.

In fact, it may be important to note that the payout charts in Figs. 9 and 10 of Walker et al. do not suggest that the amount provided if the “no trivia answer” is selected is the same as the amount provided if a correct answer is selected. To the contrary, after reviewing the payout charts, the skilled practitioner would recognize that the “no trivia answer” option *always* results an amount *inferior* to the amount provided if a correct answer has been selected. Consequently, even if the “purchasable advantage” were to suggest to the skilled practitioner that the “no trivia answer” option illustrated in Figs. 9 and 10 could be provided in exchange for monies or game credits, the combination would not disclose each and every limitation of the claimed subject matter.

Because claims 42-44 and 47-58 depend from claim 41 and the rejections of these claims rely on the application of Turner, Walker and Marnell to claim 41, it is believed these claims should also be allowable at least for the reason that the rejection based on Turner, Walker et al. and Marnell is not supported relative to claim 41.

Claim 59 recites a gaming system. The gaming system includes a display unit, a wager input device, and at least one processing unit operably coupled to the display device, the wager input device and a memory. The at least one processing unit receives a wager via

the wager input device from a player, causes the display unit to display an image representing a game, determines if an event has occurred, causes the display unit to display a matrix including a plurality of spaces if the event has occurred, an initial display of the matrix having fewer than all of the plurality of spaces having a trivia topic associated therewith, receive a selection of a space having a trivia topic associated therewith, and select a trivia question according to the trivia topic associated with the space selected. The at least one processing unit also causes the display unit to display available passes, wherein passes are available responsive to receipt of an amount of money or to exchange of an amount of game credits, wherein neither the amount of money nor the amount of game credits is associated with the wager, and the trivia question and a plurality of possible answers to the trivia question. The at least one processing unit receives a selection of one of the plurality of possible answers from the player or a selection of the pass, determines if the one of the plurality of possible answers is correct or incorrect, or if the pass was selected, and provides an award if the one of the plurality of possible answers is correct or the pass was selected, but not if the one of the plurality of possible answers is incorrect.

Similar to claim 41, claim 59 recites that the at least one processing unit causes the display unit to display available passes, wherein passes are available responsive to receipt of an amount of money or to exchange of an amount of game credits, wherein neither the amount of money nor the amount of game credits is associated with the wager. Further, claim 59 recites that the at least one processing unit receives a selection of one of the plurality of possible answers from the player or a selection of the pass, determines if the one of the plurality of possible answers is correct or incorrect, or if the pass was selected, and provides an award if the one of the plurality of possible answers is correct or the pass was selected, but not if the one of the plurality of possible answers is incorrect.

Given these similarities, the arguments raised above relative to claim 41 should apply with equal force to claim 59. That is, the arguments made regarding Walker et al. and the “purchasable advantage” would be similarly applicable relative to claim 59, given the similarity between the limitations noted above. Further, because claims 60-62 and 65-76 depend from claim 59 and the rejections of these claims rely on the application of Turner, Walker and Marnell to claim 59, it is believed these claims should also be allowable at least

for the reason that the rejection based on Turner, Walker et al. and Marnell is not supported relative to claim 59.

Claim 77 recites a gaming method. The gaming method includes receiving a wager from a player, displaying an image representing a game, determining if an event has occurred, determining if a player chooses to enter a bonus game if the event has occurred, displaying a matrix including a plurality of spaces if the player chooses to enter a bonus game, at least one of the spaces of the plurality of spaces having a trivia topic associated therewith, receiving a selection of a space having a trivia topic associated therewith, and selecting a trivia question according to the trivia topic associated with the space selected. The gaming method further includes displaying the trivia question and a plurality of possible answers to the trivia question and displaying a pass, wherein the pass is available responsive to receipt of an amount of money or to exchange of an amount of game credits, wherein neither the amount of money nor the amount of game credits is associated with the wager. The gaming method also includes receiving a selection of one of the plurality of possible answers or a selection of the pass, wherein receiving the selection of the pass is the same as receiving a selection of a correct answer from the plurality of possible answers, but different from receiving a selection of an incorrect answer from the plurality of possible answers.

Similar to claim 41 and claim 59, claim 77 recites displaying the trivia question and a plurality of possible answers to the trivia question and displaying a pass, wherein the pass is available responsive to receipt of an amount of money or to exchange of an amount of game credits, wherein neither the amount of money nor the amount of game credits is associated with the wager. Also, claim 77 recites receiving a selection of one of the plurality of possible answers or a selection of the pass, wherein receiving the selection of the pass is the same as receiving a selection of a correct answer from the plurality of possible answers, but different from receiving a selection of an incorrect answer from the plurality of possible answers.

Given these similarities, the arguments raised above relative to claim 41 should also apply with equal force to claim 77. That is, the arguments made regarding Walker et al. and the “purchasable advantage” would be similarly applicable relative to claim 77, given the similarity between the limitations noted above. Further, because claims 78 and 82-94 depend from claim 77 and the rejections of these claims thus rely on the application of Turner,

Walker and Marnell to claim 77, it is believed these claims should also be allowable at least for the reason that the rejection based on Turner, Walker et al. and Marnell is not supported relative to claim 77.

In view of the foregoing, it is respectfully submitted that the above application is in condition for allowance, and reconsideration is respectfully requested. If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below. In any event, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 13-2855, under Order No. 29757/AG70.

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Respectfully submitted,

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